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9 Attorneys for Defendants  
10 COUNTY OF STANISLAUS, SGT. LETRAS,  
11 SGT. SANDOVAL, DEPUTY CARR,  
12 DEPUTY CORRAL, and DEPUTY JOHNSON

13 **IN THE UNITED STATES DISTRICT COURT**

14 **IN AND FOR THE EASTERN DISTRICT OF CALIFORNIA**

15 JOSE ALBERTO GARCIA,

16 Plaintiff,

17 vs

18 COUNTY OF STANISLAUS, et. al.,

Defendants.

Case No.: 1:21-CV-00331-JLT-SAB

**ORDER DENYING WITHOUT  
PREJUDICE STIPULATION TO  
CONTINUE THE TRIAL DATE**

19  
20 Defendants, by and through their counsel, Shanan L. Hewitt and Jill B. Nathan of Rivera  
21 Hewitt Paul LLP, and Plaintiff, by and through his counsel, Sanjay S. Schmidt, of the Law Office of  
22 Sanjay S. Schmidt and T. Kennedy Helm, IV, of Helm Law Office, PC, hereby respectfully  
23 stipulate and request as follows:

24 **RECITALS**

25 A. On April 19, 2023, the parties filed their fourth stipulation to amend the scheduling order.  
26 B. This Court granted the parties' fourth stipulation to modify the scheduling order and, in that  
27 order, set a trial date for July 23, 2024 (ECF No. 48).

1 C. Lead counsel for Defendants, Shanan L. Hewitt of Rivera Hewitt Paul LLP, currently has a  
2 trial set for July 15, 2024, in the matter of *Hunter v. County of Sacramento*, Sacramento  
3 County Superior Court Case No.: 34-2019-00272287. The *Hunter* trial is anticipated to last  
4 three to four weeks, and possibly longer. In order to permit sufficient time for the *Hunter*  
5 trial and to allow time to prepare for trial in the *Garcia v. Stanislaus County, et al.* case, a  
6 trial date of September 16, 2024 or thereafter is requested.

7 **STIPULATION**

8 Based upon the foregoing good cause, the parties respectfully request that the Court grant  
9 the parties' stipulation by continuing the trial date to September 16, 2024 or thereafter.

10 **IT IS SO STIPULATED.**

11 Respectfully submitted,

12 DATE: MAY 22, 2023

**RIVERA HEWITT PAUL LLP**

13 /s/ Shanan L. Hewitt

14 JILL B. NATHAN  
15 SHANAN L. HEWITT  
16 Attorneys for Defendants,  
17 COUNTY OF STANISLAUS, SGT. LETRAS,  
SGT. SANDOVAL, DEPUTY CARR,  
DEPUTY CORRAL, and DEPUTY JOHNSON

19 DATE: MAY 22, 2023

**LAW OFFICE OF SANJAY S. SCHMIDT  
-AND-  
HELM LAW OFFICE, PC**

21 /s/ T. Kennedy Helm  
22 SANJAY S. SCHMIDT  
T. KENNEDY HELM, IV  
23 Attorneys for Plaintiff

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**ORDER**

2       The Court has considered the parties' stipulation. They are advised that the Court has no  
3 trial dates that are not already scheduled for at least one trial. Even still, as of now, only a few  
4 criminal trials have been set beyond February 2024. As the months pass however, the Court  
5 anticipates as many as 50 more criminal trials will be set in last ten months of 2024. This is in  
6 addition to the 93 civil cases already scheduled for 2024.<sup>1</sup>

7       Clearly, the Court lacks the ability to try all of these cases. Moreover, the Court anticipates  
8 that, because of the number of trial days needed for each trial, as time passes, the Court's trial  
9 schedule will become even more impacted. It is very likely that their trial, whenever it proceeds,  
10 will trail from day-to-day or week-to-week until the Court has an open trial date. On the other hand,  
11 the Magistrate Judges in this Court are fully capable of presiding over jury trials and their schedules  
12 allow them to give the parties a date certain. With this in mind, the Court **ORDERS:**

13      1. **Within 10 days** the parties **SHALL** seriously consider or reconsider Magistrate Judge  
14 consent. **During this same interval**, the parties **SHALL** file their consent or declination to  
15 consent to magistrate judge jurisdiction. This requires the attorneys have a full and frank  
16 discussion with their clients explaining that if this case proceeds before a District Judge, this  
17 may mean that trial will not proceed as scheduled and may result in unanticipated costs/fees  
18 caused by the delay. Though the parties are free to withhold their consent without any  
19 consequences, the parties and counsel must be fully aware of their choices.

20      2. The Court **DENIES** the stipulation without prejudice to them refiling it after they have  
21 considered magistrate judge consent.

22  
23 IT IS SO ORDERED.

24      Dated: **May 23, 2023**

  
UNITED STATES DISTRICT JUDGE

27      1 This also does not account for the trials pending before Judge de Alba—the only other District Judge in the  
28 Fresno courthouse—who has been nominated to the Ninth Circuit Court of Appeals. Her appointment would  
result in only one district judge in Fresno being available to handle *all* of the matters pending in the Fresno  
courthouse probably for an extended period. In any event, all criminal cases, whether currently assigned to  
the undersigned or Judge de Alba must proceed to trial before any civil case.